



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 12-54

of the

SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965;

WHEREAS, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe;

WHEREAS, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government;

WHEREAS, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe;

WHEREAS, the Squaxin Island Tribe wishes to enter into a Memorandum of Agreement, the purpose of this Memorandum of Agreement is to set forth the respective duties and responsibilities of the Squaxin Island Tribe and the Washington State Liquor Control Board Concerning Licensing Fees under RCW 66.24.630.

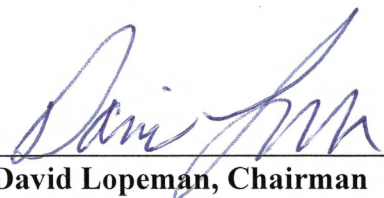
WHEREAS, the Parties have negotiated a Memorandum of Agreement (Attachment 1).

NOW THEREFORE BE IT RESOLVED, the Squaxin Island Tribal Council approves the Memorandum of Agreement made by and between the Squaxin Island Tribe ("Tribe"), a federally recognized Indian Tribe and the Washington State Liquor Control Board Concerning Licensing Fees under RCW 66.24.630.

NOW THEREFORE BE IT FURTHER RESOLVED, that the Tribal Council hereby authorizes the Council Chairman and/or the Tribal Administrator, to execute the Memorandum of Agreement;

CERTIFICATION


The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on September 13, 2012, at which time a quorum was present and was passed by a vote of 4 for and 0 against, with 0 abstentions.



David Lopeman, Chairman

Attested by: 

Peter Kruger, Sr., Secretary

 FOR

Arnold Cooper, Vice Chairman

MEMORANDUM OF AGREEMENT

Between

THE SQUAXIN ISLAND TRIBE

And

**THE WASHINGTON STATE LIQUOR CONTROL BOARD CONCERNING
LICENSING FEES UNDER RCW 66.24.630**

The Parties to this Memorandum of Agreement (MOA) are the Squaxin Island Tribe (the "Tribe") and the Washington State Liquor Control Board (the "Board") (collectively "the Parties.")

The Tribe is a federally recognized Indian Tribe possessed of the full sovereign powers of a government. The Tribe and its wholly-owned enterprises operate on the Tribe's reservation and lands (hereinafter "Indian Country"). The Tribe has authority with respect to liquor regulation under 18 U.S.C 1161 and its duly adopted Tribal Code.

The Washington State Liquor Control Board is an executive agency of Washington State government operating under the authority of the Governor. The Board has authority with respect to liquor regulation under the 21st Amendment of the U.S. Constitution, 18 U.S.C 1161, and Title 66 RCW.

I. Purpose

The introduction, possession, and sale of liquor in Indian Country have, since treaty time, been clearly recognized as matters of special concern to Indian tribes and to the United States federal government. Federal law currently prohibits the introduction of liquor into Indian Country without compliance with both tribal law and certain laws of the state within which the tribal property is located. After serious deliberation, the Tribe has determined that present day circumstances make a complete ban of liquor within Indian Country ineffective and unrealistic. At the same time, the need still exists for strict regulation and control over liquor distribution and sales.

The Parties share a strong interest in ensuring that liquor distribution and sales in Indian Country are well-regulated to protect public health and safety and community interests. In addition to sharing these concerns, the Parties also share regulatory authority over liquor distribution and sales in Indian Country.

The Parties acknowledge that pursuant to federal law, 18 U.S.C. § 1161, the federal prohibition on sale of liquor in Indian Country shall not apply to any act or transaction within any area of Indian Country provided that such act or transaction is in conformity both with the laws of the State in which such act or transaction occurs and with an ordinance duly adopted by the tribe having jurisdiction over such area of Indian Country, certified by the Secretary of the Interior, and published in the Federal Register. The Tribe has adopted a liquor ordinance which was certified by the Secretary of the Interior and published in the Federal Register.

The Parties further acknowledge that within the framework of federal Indian law, tribal law, and state law, there are uncertainties and unsettled issues regarding jurisdiction, licensing, taxation, enforcement, and other matters essential to the proper regulation of liquor distribution and sales in Indian Country.

The Parties have worked closely together over the past years to develop an approach to resolving issues. The Board has adopted the Government to Government Consultation Board Policy 11-2009, such policy recognizing the federal laws and principles underlying the general tribal preemption from state regulation.

The Parties therefore agree that it is in the best interests of the Tribe and the Board, on behalf of the State of Washington, to enter into an agreement to provide certainty and cooperation regarding payment of reasonable fees for regulatory services provided by the Board to the Tribe.

II. Definitions

- A. Board means the Liquor Control Board and its staff.
- B. Indian Country means the lands of the Squaxin Island Tribe as defined in 18 U.S. §1151.
- C. MOA means this Memorandum of Agreement.
- D. Parties means the Board and the Tribe.
- E. Tribe means the Squaxin Island Tribe of Indians.
- F. Tribal Enterprise means a wholly-owned Tribal enterprise or a subordinate economic enterprise and/or subdivision of the Tribal government.

III. Terms of Agreement

- A. **Payment for Services for Spirits Retail Licensed Locations.** The Parties agree that they have a long-standing disagreement with respect to the application of state law to Tribal liquor sales. Therefore, the Parties agree that in lieu of license fees imposed by RCW 66.24.630 on spirits retail licensees, from which the Tribe claims an exemption under federal law, the Tribe and its Tribal Enterprises shall hereafter make payment to compensate the Board for the licensing and enforcement services it provides to the Tribe in furtherance of their shared interest in regulating the distribution and sale of liquor in Indian Country (the "Fee for Services"). The Parties agree that any payment by the Tribe does not impact the Tribe's authority to regulate the distribution and sale of liquor.
- B. **Location of Sales.** The Tribe and its Tribal Enterprises currently sell spirits under a spirits retail license in Indian Country at the following location(s) under the license(s) specified below:

Kamilche Trading Post LLC, 61 West State Route 108, Shelton, WA 98584

- C. **Fee for Services Amount; Payment Due Date.** The Tribe and/or its Tribal Enterprises agree to pay an annual Fee for Services in the amount of one thousand six hundred forty-four dollars (\$1,644.00) for each location identified in subsection B above. Upon execution of this Agreement, the Board will invoice the Tribe for the prorated Fee for Services due until the next license renewal date.

The Tribe and/or its Tribal Enterprises agree to pay the Fee for Services upon application for spirits retail license and/or renewal of a spirits retail license for an existing location; provided, that in the case of a new application, \$166 of the Fee for Services shall be due and payable upon application, and the remainder of the Fee for Services shall be due upon approval of the license by the board. The Parties agree to reassess the amount of the Fee for Services on at least a biennial basis, to consider changes in the Board's costs and services provided.

- D. **Fee Requirements Not Applicable.** The Board agrees that in lieu of the spirits retailer license fees imposed by RCW 66.24.630, the Board will accept payment under paragraph C, and will not impose nor pursue collection of such licensing fees/taxes on sales by the Tribe and the Tribal Enterprises. In the event that new licensing fees or taxes on spirits retailers are added, or the existing licensing fees/taxes are modified, repealed, or replaced, as the result of legislation, initiative, referendum, court decision, or otherwise, the Parties agree that the Fee for Services agreed to in subsection C shall remain in effect pending agreement of the Parties to a revised fee for regulatory services as the Parties agree is appropriate under the circumstances and that the Board shall not impose nor pursue collection of the new fees and taxes on sales by the Tribe and the Tribal Enterprises. The Parties agree to meet and pursue discussions of the applicability of any new fees or taxes on an expedited basis.
- E. **Conditions and Limitations.** The Tribe agrees to make sales of liquor by the Tribe and the Tribal Enterprises in conformance with Title 66 RCW and other applicable state laws, to the extent not preempted by federal law.
- F. **Future Issues.** The Parties acknowledge that the regulation of liquor since the passage of Initiative 1183 has necessitated discussion between the Tribe and the Board regarding issues of mutual concern to each as regulators of liquor distribution and sales in Indian Country. The Parties commit to consult and work together on a government-to-government basis in good faith on the resolution of additional issues as they arise.
- G. **Sovereign Immunity Not Waived.** The Board agrees that the signing of this MOA by the Tribe does not imply a waiver of sovereign immunity by the Tribe or its Tribal Enterprises and is not intended by the Tribe or the Tribal Enterprises as a waiver of sovereign immunity, and is not a waiver of sovereign immunity by the Tribe or the Tribal Enterprises.
- H. **Disagreements.** Should a disagreement arise under this MOA, either Party may ask for a meeting to discuss the MOA.

IV. Communication and Notice

For the Liquor Control Board:

Deputy Director and Tribal Liaison
Rick Garza
P.O. Box 43080
Olympia, WA 98504

For the Tribe:

Kamilche Trading Post LLC
61 West State Route 108
Shelton, WA 98584

With a copy to:

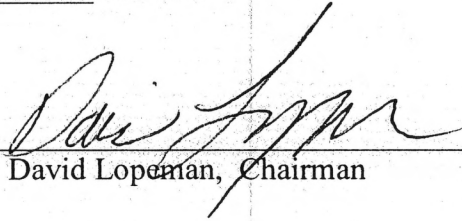
Squaxin Island Legal Department
3711 SE Old Olympic Highway
Shelton, WA 98584

V. Effect, Duration, and Amendment

This MOA shall have an initial term of ten (10) years, beginning on the date of the last party signature, and shall thereafter automatically renew for ten (10) year terms unless either party provides notice no less than one (1) year prior to the expiration date; provided, that the Parties agree that this MOA may be superseded by a duly negotiated agreement addressing all types of liquor licenses held by the tribe. Should information come to the attention of the Tribe or the Board that this MOA provides the Tribe with significant services without compensation to the Board, or provides the Board with significant compensation at the expense of the Tribe, the Parties agree to meet, renegotiate, and amend this Agreement.

This MOA is effective as of the _____ day _____ of 2012.

Sharon Foster, Board Chair
Liquor Control Board



David Lopeman, Chairman

Ruthann Kurose, Board Member

Chris Marr, Board Member

Pat Kohler, Executive Director